

SENATE BILL No. 336

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2-163.7; IC 14-34; IC 27-7-9.

Synopsis: Mine subsidence insurance. Allows the post-1977 abandoned mine reclamation fund to be used for the restoration of land that has been affected by any coal mining activity. (Under current law, the fund may be used only for the restoration of land affected by surface coal mining activity.) Requires an annual transfer of \$150,000 from the mine subsidence insurance fund to the natural resources reclamation division fund to defray certain expenses related to mine subsidence that are incurred by the division of reclamation of the department of natural resources. Amends the mine subsidence insurance law to make insurance coverage available for damage caused by the collapse of an underground coal mine regardless of the date on which the mine was abandoned and even if the mine had not been abandoned. Provides that mine subsidence coverage must include coverage of up to \$25,000 for additional living expenses reasonably and necessarily incurred by an insured who is temporarily displaced as a direct result of damage caused by mine subsidence to the covered structure in which the insured resides. Requires the insurance commissioner, upon the occurrence of an apparent mine subsidence event causing damage to one or more structures covered by mine subsidence insurance, to request an opinion from the division of reclamation as to whether the damage was caused by mine subsidence. Requires the division of reclamation to provide an opinion in response to the insurance commissioner's request. Provides for a one time transfer of \$1,989,897 from the mine subsidence insurance fund to the post-1977 abandoned mine reclamation fund for purposes of the restoration of land that has been affected by mine subsidence associated with coal mining activity occurring after August 3, 1977, and that is not otherwise eligible for restoration through federal funding.

Effective: April 1, 2016.

Becker, Messmer

January 7, 2016, read first time and referred to Committee on Natural Resources.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 336

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-163.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE APRIL 1, 2016]: **Sec. 163.7. "Mine subsidence", for**
4 **purposes of IC 14-34-11-5, has the meaning set forth in**
5 **IC 27-7-9-3.**

6 SECTION 2. IC 14-34-6-15 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 15. (a) As used in this
8 section, "fund" refers to the post-1977 abandoned mine reclamation
9 fund established by this section.

10 (b) The post-1977 abandoned mine reclamation fund is established.
11 The fund consists of bond forfeiture money collected under section 16
12 of this chapter and the civil penalties described in IC 14-34-16-9. The
13 fund may be used as follows:

14 (1) To effect the restoration of land:
15 (A) **that is** not otherwise eligible for **restoration through**
16 **federal funding; on which there and**
17 (B) **that has been affected by surface coal** mining activity



1 **that occurred** after August 3, 1977.

2 (2) To replace domestic water supplies disrupted or affected by a
3 surface coal mining and reclamation operation, including the
4 disposal of coal combustion waste (as defined in IC 13-19-3-3),
5 where the surface coal mining and reclamation operation has been
6 completed and is no longer subject to IC 14-34.

7 ~~The money held for this purpose may not exceed an amount established~~
8 ~~by the department that is sufficient to enable the director to cover the~~
9 ~~anticipated cost of restoration.~~

10 (c) At least five hundred thousand dollars (\$500,000) in the fund is
11 dedicated as collateral for the bond pool under IC 14-34-8 and may not
12 be used for the restoration of land or replacement of water described in
13 subsection (b).

14 (d) The treasurer of state shall invest the money in the fund not
15 currently needed to meet the obligations of the fund in the same
16 manner as other public money may be invested. Interest that accrues
17 from these investments shall be deposited in the fund.

18 (e) Money in the fund at the end of a state fiscal year does not revert
19 to the state general fund.

20 SECTION 3. IC 14-34-11-5 IS ADDED TO THE INDIANA CODE
21 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
22 APRIL 1, 2016]: **Sec. 5. (a) As used in this section, "mine**
23 **subsidence" has the meaning set forth in IC 27-7-9-3.**

24 **(b) In response to a request made by the insurance**
25 **commissioner under IC 27-7-9-9.5(a), the division of reclamation**
26 **established by IC 14-9-4-1(18) shall provide an opinion as to**
27 **whether damage to one (1) or more structures insured under**
28 **IC 27-7-9 was caused by mine subsidence.**

29 SECTION 4. IC 14-34-11-6 IS ADDED TO THE INDIANA CODE
30 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
31 APRIL 1, 2016]: **Sec. 6. The division of reclamation established by**
32 **IC 14-9-4-1(18) shall do the following:**

33 **(1) By itself or in cooperation with one (1) or more other**
34 **agencies or institutions, maintain an electronic data base**
35 **containing information identifying all known underground**
36 **coal mines that:**

37 **(A) are located in Indiana; and**

38 **(B) were in operation before April 1, 2016.**

39 **(2) Review every permit application submitted under this**
40 **article by an applicant proposing to extract coal by**
41 **underground mining methods for the purpose of determining**
42 **whether the applicant's mining operations would meet all**



requirements established by this article and the rules adopted under this article for the protection of persons other than the applicant.

(3) Require the operator of each underground coal mine to submit by January 31 of each year a map showing the location and extent of the underground removal of coal at the operator's mine during the previous calendar year.

(4) Include an electronic version of each map submitted under subdivision (3) in the electronic data base maintained under subdivision (1).

SECTION 5. IC 27-7-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 3. As used in this chapter, "mine subsidence" means the collapse of ~~inactive an~~ underground coal ~~mines~~ ~~abandoned before August 3, 1977,~~ mine resulting in damage to a structure. The term does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of storm or sewer drains.

SECTION 6. IC 27-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 5. As used in this chapter, "structure" means any dwelling, building, or fixture permanently fixed to real property. The term does not include land, trees, crops, or other plants. ~~nor does the term include a dwelling, building, or fixture that is owned by a public or governmental entity.~~

SECTION 7. IC 27-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 7. (a) The mine subsidence insurance fund is established for the purpose of:

(1) making mine subsidence insurance available to owners of property located in counties identified under section 6 of this chapter; and

(2) making annual transfers under subsection (f) into the natural resources reclamation division fund established by IC 14-34-14-2.

(b) The fund shall be administered by the commissioner. Money shall be deposited in the fund from:

(1) premiums for mine subsidence insurance remitted by insurers to the commissioner; and

(2) funds obtained through federal grants or any other source.

~~(b)~~ (c) The expenses of administering the fund shall be paid from money in the fund.

~~(e)~~ (d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.



(d) (e) Money in the fund at the end of a particular fiscal year does not revert to the state general fund.

(f) Each year, after June 30 and before August 1, the commissioner shall transfer one hundred fifty thousand dollars (\$150,000) from the mine subsidence insurance fund established by this section to the department of natural resources for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 to defray expenses related to mine subsidence that are incurred by the division of reclamation under:

(1) IC 27-7-9-6;

(2) IC 27-7-9-9.5(a) and IC 14-34-11-5; and

(3) IC 14-34-11-6.

SECTION 8. IC 27-7-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 8. (a) Coverage for damage due to mine subsidence must be available as an additional form of coverage under any insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter. The mine subsidence coverage must be available in an amount adequate to indemnify the insured to the extent of:

(1) the loss in actual cash value of the covered structure due to mine subsidence, less a deductible **that:**

(A) **must be** equal to two percent (2%) of the insured value of the structure under the policy; ~~However, the deductible but~~

(B) **must be:**

(i) no less than two hundred fifty dollars (\$250); and

(ii) no more than five hundred dollars (\$500); and

(2) **up to twenty-five thousand dollars (\$25,000) for additional living expenses reasonably and necessarily incurred by an insured who is temporarily displaced as a direct result of damage caused by mine subsidence to the covered structure in which the insured resides, if no other type of coverage provided by the policy of the insured indemnifies the insured for these living expenses.**

(b) An insurer proposing to issue a policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to cover one (1) or more structures located in a county identified under section 6 of this chapter shall inform the prospective policyholder of the availability of mine subsidence coverage under this section. An insurer shall inform the prospective policyholder of the availability of mine subsidence coverage under this subsection when a policy described in this subsection is issued.



(c) When an insurer informs a prospective policyholder of the amount of the premium for the mine subsidence coverage that is available as an additional form of coverage under a policy as required by subsection (a), the premium for the mine subsidence coverage must be stated separately from the premium for the other coverage provided by the policy. The amount of the premium for mine subsidence coverage provided by an insurer under this section must be set according to the premium level set by the commissioner under section 10 of this chapter.

(d) Except as provided in subsection (f), an insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter must include the mine subsidence coverage provided for under subsection (a) if the prospective insured (before issuance of the policy) or the insured (before renewal of the policy) indicates that the coverage is to be included in the policy.

(e) An insurer is not required to provide mine subsidence coverage under subsection (a) under any insurance policy in an amount exceeding the amount that is reimbursable from the fund under section 9(a)(4) of this chapter.

(f) An insurer must decline to make the mine subsidence coverage provided for under subsection (a) available to cover a structure evidencing unrepaired mine subsidence damage, until necessary repairs are made. An insurer may also decline to make the mine subsidence coverage available under an insurance policy if the insurer has:

- (1) declined to issue the policy;
- (2) declined to renew the policy; or
- (3) canceled all coverage under the policy for underwriting reasons unrelated to mine subsidence.

SECTION 9. IC 27-7-9-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2016]: Sec. 9.5. **(a) Upon the occurrence of an apparent mine subsidence event causing damage to one (1) or more structures insured under this chapter, the commissioner shall request an opinion from the division of reclamation of the department of natural resources as to whether the damage was caused by mine subsidence.**

(a) (b) The commissioner shall provide insurers with assistance from one (1) or more individuals with technical expertise in mine subsidence for the purpose of assisting with the adjusting of claims under coverage issued under this chapter. **If the commissioner considers it necessary in order to comply with this section;**



subsection, the commissioner may:

- (1) expand the staff of the department of insurance; or
- (2) enter into contracts providing for the services of persons with the necessary technical expertise to provide assistance to insurers in the determination of subsidence events.

~~(b)~~ **(c)** The adjustment of a claim against a policy that includes mine subsidence coverage under this chapter is the sole responsibility of the insurer until the insurer makes a preliminary determination that the loss may involve mine subsidence. Upon such a determination, those persons retained by the commissioner as set out in subsection ~~(a)~~ **(b)** of this section shall assist the commissioner and insurer in determining the existence of a mine subsidence event and the costs therein shall be paid from the fund established by section 7 of this chapter.

SECTION 10. [EFFECTIVE APRIL 1, 2016] (a) The auditor of state, not later than July 1, 2016, shall transfer from the mine subsidence insurance fund established by IC 27-7-9-7 to the post-1977 abandoned mine reclamation fund established by IC 14-34-6-15(b) one million nine hundred eighty-nine thousand eight hundred ninety-seven dollars (\$1,989,897).

(b) The money transferred under this SECTION shall be used for the purposes set forth in IC 14-34-6-15(b), as amended by this act, including the restoration of land that:

- (1) has been affected by mine subsidence (as defined in IC 27-7-9-3, as amended by this act) associated with coal mining activity that occurred after August 3, 1977; and**
- (2) is not otherwise eligible for restoration through federal funding or with money in a fund established under IC 14-34-19.**

(c) This SECTION expires July 1, 2017.

SECTION 11. An emergency is declared for this act.

